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ASCS BACKGROUND INFORMATION

Agricultural Stabilization and Conservation Service
U. S. Department of Agriculture

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THE WATER BANK PROGRAM

Legislative Authority: The Water Bank Act, Public Law 91-559
(84 Stat. 1468, 16 U.S.C. 1301), approved December 19, 1970.

Under the Water Bank Act, the Secretary of Agriculture is authorized and directed to formulate and carry out a continuous program in important migratory waterfowl nesting and breeding areas to prevent the serious loss of wetlands, and to preserve, restore and improve inland fresh water and adjacent areas as designated in the Act.

An Advisory Board, appointed by the Secretary, advises and consults on matters relating to his functions under the Act.

Purpose: The Congress found it in the public interest to provide for conserving surface waters, to preserve and improve habitat for migratory waterfowl and other wildlife resources, to reduce runoff, soil and wind erosion and to contribute to water control.

The Water Bank Program, then, is carried out to meet Congressional intent:

- to preserve and improve habitat for important migratory waterfowl nesting and breeding areas and other wildlife resources.
- to preserve, and improve the wetlands of the Nation, and to conserve surface waters.
- to reduce runoff, soil and water erosion, and contribute to flood control.
- to contribute to improved water quality and reduce stream sedimentation.
- to contribute to improved subsurface moisture.
- to reduce acres of new land coming into production and to retire lands now in agricultural production.
- to enhance the natural beauty of the landscape.
- to promote comprehensive and total water management planning.

Program Provisions: Under the Water Bank Program, eligible persons in selected areas having eligible wetlands in important migratory waterfowl nesting and breeding areas may enter into 10-year agreements, with provision for renewal, and receive annual payments for the conservation of water and to meet other purposes of the Act.

In carrying out the program, the Secretary shall not enter into any agreements with owners or operators that will require Water Bank Program payments in any calendar year in excess of \$10,000,000.

The Water Bank Program on specified farm, ranch or other wetlands applies to wetlands identified in a conservation plan developed in cooperation with the Soil and Water Conservation District in which the lands are located, and under terms and conditions set forth by the Secretary.

Farmer-elected county committees of ASCS administer the Program. Planning and technical services are provided by the Soil Conservation Service.

The term "wetlands" is defined in the Water Bank Act as meaning the inland fresh areas (types 1 through 5) described in Circular 39, Wetlands of the United States, published by the U.S. Department of the Interior. This definition includes artificially developed inland fresh areas which meet the description of inland fresh areas, types 1 through 5, contained in Circular 39.

In brief, these types include (1) seasonally flooded basis or flats; (2) fresh meadows; (3) shallow fresh marshes; (4) deep fresh marshes, and (5) open fresh water.

Land eligible for designation and placement under an agreement is privately owned inland fresh wetland areas of types 3, 4, and 5 that in the absence of participation in the program, a change in use could reasonably be expected which would destroy its wetland character.

Other privately owned land, including types 1 and 2 wetlands, which is adjacent to designated types 3, 4, or 5 wetlands may be designated upon determination by the county committee that this land is essential for the nesting and brooding of migratory waterfowl.

In entering into an agreement, the owner or operator shall agree:

(1) not to drain, burn, fill or otherwise destroy the wetland character of areas placed under the agreement, nor to use such areas for agricultural purposes, as determined by the Secretary.

(2) to carry out the wetland conservation and development plan for his land in accordance with the terms of the agreement.

(3) not to adopt any practice specified by the Secretary as one that would tend to defeat the purposes of the agreement.

(4) to such additional provisions as the Secretary determines are desirable and includes in the agreement to meet program purposes or to facilitate its administration.

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